

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

NORRELL DENISE TROY,

Defendant-Appellee,

and

COMERICA BANK,

Appellant.

---

UNPUBLISHED

February 8, 2007

No. 267232

Oakland Circuit Court

LC No. 03-193129-FH

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

PER CURIAM.

Following a plea of nolo contendere to a charge of attempted false pretenses over \$20,000, MCL 750.218(5)(a); MCL 750.92, defendant was ordered to pay \$18,000 in restitution.<sup>1</sup> Comerica Bank brought a motion for seizure of property and garnishment to enforce the order of restitution. From an order denying this motion, Comerica Bank appeals as of right. Because of Comerica's procedural irregularity, we affirm, but remand for correction of the judgment of sentence to accurately reflect defendant's conviction offense. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

MCL 780.766(13), a provision of the Crime Victim's Rights Act, provides in pertinent part:

An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property

---

<sup>1</sup> The judgment of sentence indicates a plea to the charge of uttering and publishing. At sentencing the trial court ordered the correction of the conviction to the charge of attempted false pretenses over \$20,000. The register of actions provides that the plea was to the charge of attempted false pretenses.

of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.

Comerica was not named as a victim in the order of restitution or the judgment, but its status as a victim was not disputed in the lower court. Under MCL 780.766(13), it could file the order of restitution as a lien against the defendant's property without any additional action. However, MCL 780.766(13) does not address garnishment or seizure of property.

MCL 600.6104 addresses seizure of money and property, but not garnishment, and provides that, "[a]fter judgment for money has been rendered in an action in any court of this state, the judge may, on motion in that action or in a subsequent proceeding" provide authorized relief. Thus, contrary to the trial court's conclusion in this case, it was authorized to order seizure of money or property, as authorized by this statute, in this criminal proceeding. However, MCL 600.6104 requires identification of the items to be seized and a determination that these items are not exempt from execution. It does not provide for a generic order for seizure of property such as Comerica requested. Thus, there was no error in denying the request for seizure of property in this case.

Comerica also sought an order of garnishment. MCL 600.4011 authorizes garnishment to satisfy a judgment but provides that a "court may exercise the jurisdiction granted in this section only in accordance with the Michigan court rules." The procedure for obtaining a writ of garnishment after judgment is set forth in MCR 3.101. This rule provides in pertinent part:

(D) Request for and Issuance of Writ. The clerk of the court that entered the judgment shall issue a writ of garnishment if the plaintiff, or someone on the plaintiff's behalf, makes and files a statement verified in the manner provided in MCR 2.114(A) stating:

(1) that a judgment has been entered against the defendant and remains unsatisfied;

(2) the amount of the judgment and the amount remaining unpaid;

(3) that the person signing the verified statement knows or has good reason to believe that

(a) a named person has control of property belonging to the defendant,

(b) a named person is indebted to the defendant, or

(c) a named person is obligated to make periodic payments to the defendant.

(E) Writ of Garnishment.

(1) The writ of garnishment must have attached or must include a copy of the verified statement requesting issuance of the writ, and must include information

that will permit the garnishee to identify the defendant, such as the defendant's address, social security number, employee identification number, federal tax identification number, employer number, or account number, if known.

Comerica did not comply with this court rule in seeking an order of garnishment. Accordingly, the trial court did not err in denying Comerica's motion for seizure of property and garnishment.

Affirmed and remanded for correction of the judgment of sentence. We do not retain jurisdiction in this matter.

/s/ David H. Sawyer  
/s/ E. Thomas Fitzgerald  
/s/ Pat M. Donofrio